

ZONING BOARD OF APPEALS

Tuesday, September 16, 2008
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

ZBA Members: Dan Roszkowski
Julio Salgado
Alicia DiBenedetto
Craig Sockwell
Scott Sanders

Absent: Aaron Magdziarz

Staff: Todd Cagnoni – Deputy Director, Community & Economic
Development, Construction & Development Services
Sandra Hawthorne – Administrative Assistant
Jennifer Cacciapaglia – City Attorney
Jon Hollander – City Engineer, Public Works
Chief Frank Schmitt - Fire Prevention Division
Reid Montgomery – Director, Community & Economic Development

Others: Kathy Berg, Stenographer
Applicants and Interested Parties

The meeting started at 6:33 P.M. A **MOTION** was made by Scott Sanders to **APPROVE** the minutes of the August 19, 2008 meeting as submitted. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0 with Aaron Magdziarz absent.

019-08

Applicant
Ward 1

7801 East State Street

Rapid Graphics & Signs

Special Use Permit for an on-premise electronic graphic display sign that exceeds the allowable 36 sq. ft. to 136.5 sq. ft.

Special Use Permit to allow an additional free-standing sign

Variation to increase the allowable height of a free-standing sign from eight (8) feet to sixty-six and one half (66 ½) feet along Interstate 90 in a C-3, Commercial General Zoning District

Referred back to ZBA from City Council Codes & Regulations.

Laid Over from July & August meetings

This item was referred back to the Zoning Board of Appeals by City Council due to some concerns of the Alderman. It was Laid Over from the July and August meetings because Staff had not heard from the Applicant nor their Representative as to the status of this application. On August 20th, a letter was sent to the Applicant informing them that this item had been laid over to the September meeting and requested the Applicant “contact the Zoning office as soon as possible to discuss this item”. Mr. Cagnoni explained this item came before the Board after the new sign Ordinance was in effect. Alderman Sosnowski had some concerns and this item was referred back to ZBA. The Applicant was informed that they needed to contact Staff and failed to do so.

Staff Recommendation was for Approval of all three items with 7 conditions.

A **MOTION** was made by Scott Sanders to **DISMISS** the Special Use Permit for an on-premise electronic graphic display sign that exceeds the allowable 36 sq. ft. to 136.5 sq. ft.; the Special Use Permit to allow an additional free-standing sign; and the Variation to increase the allowable height of a free-standing sign from eight (8) feet to sixty-six and one half (66 ½) feet along Interstate 90 in a C-3, Commercial General Zoning District at 7801 East State Street. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

No further action will take place on this application.

043-08 **1405-1407 North Main Street**
Applicant City of Rockford Department of Law
Ward 3 **Revocation of Special Use Permit #102-05** for indoor retail liquor sales by the drink in
 conjunction with a full service restaurant in a C-2, Commercial Community District
 Laid Over from August meeting

Attorney Cacciapaglia asked that this item be Laid Over to the October meeting.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Revocation of Special Use Permit #102-05 for indoor retail liquor sales by the drink in conjunction with a full service restaurant in a C-2, Commercial Community District at 1405-1407 North Main Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

044-08 **3630 North Rockton Avenue**
Applicant GTR Realty Advisors LLC
Ward 12 **Zoning Map Amendment** from R-1, Single-family Residential District to C-2, Limited
 Commercial District for Parcel A and B
 Special Use Permit for a drug store with a drive-through window for Parcel B in a C-2,
 Limited Commercial District

Prior to the meeting, a letter was received by the Applicant explaining one of their prospective users had discontinued expansion plans at this site. They have requested that this item be Laid Over to the November 18th Zoning Board of Appeals meeting to allow them time to modify their development plans for the property.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Zoning Map Amendment from R-1, Single-family Residential District to C-2, Limited Commercial District for Parcel A and B; and the Special Use Permit for a drug store with a drive-through window for Parcel B in a C-2, Limited Commercial District for the property at 3630 North Rockton Avenue to the November 18, 2008 meeting of the Zoning Board of Appeals. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

045-08 **4431 East State Street**
Applicant Mary's Market / Bryan Suh
Ward 10 **Variation** to increase the number of allowable free-standing signs from the allowable one
 to two in a C-2, Limited Commercial Zoning District

The subject property is located 400 feet west of the Alpine Road and East State Street intersection and is Mary's Market Café and Bakery. Briyan Suh, Applicant, and Ross Tarara, Engineer, were present. Mr. Suh reviewed the application. He explained the building is L shaped with 3 tenants. It is their desire to put a four feet by eight feet freestanding sign, 5'4" high on the north side of the property between the ingress and egress area to the parking lot. This will be a monument sign, parallel to the line of traffic. The logo sign will be removed. The City is planning to put a sidewalk along State Street which has affected his original plan and staff is in agreement with the new concept.

Scott Sanders wished clarification on Staff report regarding the existing sign come in performance with current sign ordinance. Mr. Cagnoni explained #4 of conditions of approval specified the removal of the existing sign.

Staff Recommendation was for Approval with 5 conditions. No Objectors were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Variation to increase the number of allowable free-standing signs from the allowable one to two in a C-2, Limited Commercial Zoning District at 4431 East State Street. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0.

Approval is subject to the following conditions:

1. Meet all Building and Fire codes.
2. Submittal of Building Permit for Staff review and approval.
3. That the second freestanding sign shall be a landmark style sign in accordance with the Sign ordinance and shall be installed within a landscape island in accordance to Exhibit I.
4. The existing Mary's Market signage on the free-standing sign must be removed before the second free-standing sign can be constructed.
5. The entry/exit way must be clearly marked with turn in and turn out arrows.

ZBA 045-08
Findings of Fact for a Variation
To Increase the Number of Allowable Free-standing Signs
From the Allowable One (1) to Two (2)
In a C-2, Limited Commercial Zoning District at
44231 East State Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

046-08 **3702 – 3748 North Main Street**
Applicant Steve Papesh
Ward 12 **Special Use Permit** for a drive-up / pick-up window
 Variation to reduce the required eight stacking spaces to four stacking spaces in a C-2,
 Limited Commercial District

The subject property is located on the northwest corner of West Riverside and Main Street, and is a tenant space on the north side of a building within the Hilander Shopping Center. Danny Senf, Facilities Director for Pizza Hut reviewed the request. The new tenant for this space is Pizza Hut and they are looking to add a drive-up window for carry out orders. A site plan was presented by Mr. Senf indicating the changes they wished to make to reduce stacking to four.

Mr. Senf stated they would prefer to keep the 9 feet area between the barrier curb and drive through aisle, which is currently pavement, open in the event they need to use it for landscaping purposes. Both Scott Sanders and Dan Roszkowski felt this area should be green space to prevent any confusion as to its use by customers. The Board wished to add a condition of Approval to dedicate this area to green space.

Staff Recommendation is for Approval of both items with 4 conditions. No Objectors were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for a drive-up / pick-up window, and **APPROVE** the Variation to reduce the required eight stacking spaces to four stacking spaces with added condition 5, in a C-2, Limited Commercial District at 3702-3748 North Main Street. The Motion was **SECONDED** by Alicia DiBenedetto and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes for the interior and exterior remodeling of the building.
2. The site plan layout must be reviewed with Public Works and Fire Department prior to issuance of a building permit.
3. Landscaping units will need to be incorporated into the new median and the re-stripe corner would need to be a landscape island as shown on Exhibit E.
4. If the use of a carryout pizza restaurant is discontinued, the new proposal must be evaluated prior to establishing the new use and may require modification of the Special Use Permit.
5. Site plan submitted to be modified to include an expansion of the landscape island between the barrier curb and drive through aisle.

046-08
Findings of Fact for a Special Use Permit
For a Drive-Up/Pick-Up Window
In a C-2, Limited Commercial District at
3748 North Main Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.

4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-2, Limited Commercial Zoning District in which it is located.

ZBA 046-08
Findings of Fact for a Variation
To Reduce the Required Eight (8) Stacking Spaces to Four (4) Stacking Spaces
In a C-2, Limited Commercial District at
3748 North Main Street

Approval of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

047-08 **2583 McFarland Road**
Applicant Eagle Land Development / Dan Hauser Construction
Ward 1 **Variation** to increase the allowed height from 8 feet to 20 feet for a pylon pole
 freestanding sign.
 Variation to increase the allowed square footage from 64 to 98 square feet for a pylon
 pole freestanding sign in a C-2, Limited Commercial District

The subject property is located along McFarland Road and Perry Creek Parkway and is under construction for a proposed Franchesco's Restaurant and banquet facility. The applicant is requesting a freestanding sign on the southwest corner of the lot, and one on the south property line fronting Perry Creek Parkway. The sign fronting Perry Creek Parkway is the one for which the Applicant is requesting the Variations. Paul Glendenning reviewed requests for Variations. He explained this project is for a 21,000 square foot restaurant and the Applicant wishes to construct a sign that will be viewable from

Perryville Road. Because of the quality and type of development, they would like to extend the sign to 20 feet.

Benny Salamone, owner of the establishment, stated they were located in Cherry Valley and there are boundaries that limit growth and expansion of the restaurant at that site. Mr. Salamone feels he can do something a little above and beyond what other establishments are doing by bringing in a level of service and quality of food that will attract patrons. Dan Schimka, stated the kitchen will be state of the art. The floor will be epoxy for advanced cleanliness. He estimate there will be 24 employees in the food area. Wait staff and kitchen staff will be trained for 3 weeks. Paul Glendenning summarized the benefit of having a sign large enough to be seen from Perryville and I-90.

Staff Recommendation was for Denial of both Variations. No Objectors were present.

In response to a question from Ms. DiBenedetto, Mr. Glendenning clarified that sidewalks will be developed along both McFarland Road and Perry Creek.

Mr. Sockwell was in favor of the increase in sign size and height. Mr. Sanders stated he disagreed, adding that the City adopted a new Ordinance that a monument sign would be preferable, and does not feel that we should continue allowing larger signs as under the expired Ordinance. He further pointed out that the 35 foot sign stating "Franchesco's" on the side of the building should be clearly visible. Dan Roszkowski agreed that the City adopted the new sign ordinance for a reason and the reason was clearly exhibited in the photos of taller signs submitted by Ms. Salamone.

A **MOTION** was made by Scott Sanders to **DENY** the Variation to increase the allowed height from 8 feet to 20 feet for a pylon pole freestanding sign, and to **DENY** the Variation to increase the allowed square footage from 64 to 98 square feet for a pylon pole freestanding sign in a C-2, Limited Commercial District at 2583 McFarland Road. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-1 with Craig Sockwell voting Nay.

ZBA 047-08
Findings of Fact for a Variation
To Increase the Allowed Height from Eight (8) Feet to Twenty (20) Feet
For a Pylon Pole Freestanding Sign
In a C-2, Limited Commercial District at
2601 McFarland Road

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

ZBA 047-08
Findings of Fact for A Variation
To Increase the Allowed Square Footage
From Sixty Four (64) Square Feet to Ninety-eight (98) Square Feet
For a Pylon Pole Freestanding Sign
In a C-2, Limited Commercial District at
2601 McFarland Road

Denial of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

OTHER

Because the Board consists of all new members with the exception of Mr. Roszkowski, it was felt that an informational / training session would be helpful for the Board members. It was agreed that Todd Cagnoni and a representative from the Legal Department would meet with Board members at 5:00 PM on Tuesday, October 21, prior to that evening's Liquor Advisory Board and Zoning Board of Appeals meetings. The meeting will be held in Conference Room B on the second floor. If Board members have any questions they may call Sandra Hawthorne at (815) 987-5624. With no further business to come before the Board, the meeting was adjourned at 7:17 PM

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals